

2008 Legislative Report

Washington State Department of Financial Institutions

ESHB 1031 - Electronic Devices (Effective Date 6/12/2008)

- It is a class C felony for a person to intentionally scan another person's identification device remotely, without that person's prior knowledge or consent, for the purpose of fraud, identity theft, or another illegal purpose.

2SHB 1273 – Financial Fraud (Effective Date 6/12/2008)

- The financial fraud and identity theft crimes investigation and prosecution program is created in the Department of Community, Trade and Economic Development (CTED). Two regional financial fraud and identity theft crime task forces are created. One task force includes King and Pierce counties and the second includes Spokane County.
- The task forces are to: (1) hold regular meetings to discuss emerging trends and threats of local financial fraud and identity theft crimes; (2) set priorities for the activities of the task forces; (3) apply to CTED for funding to hire prosecutors and law enforcement personnel dedicated to investigating and prosecuting financial fraud and identity theft crimes; (4) establish outcome-based performance measures; and (5) report twice annually to CTED on the activities of the task force.

HB 2770 – Homeownership Security (Governor Bill - Effective Date 6/12/2008)

- Requires additional disclosure for mortgage borrowers.
- Prohibits prepayment penalties that extend beyond 60 days prior to the initial reset of an adjustable rate mortgage in residential loans.
- Prohibits negative amortization for sub-prime borrowers in residential loans.
- Prohibits the steering of consumers into higher cost loans.
- Establishes the framework and penalties for crimes related to mortgage fraud.

HB 2791 Distressed Property (Attorney General Bill - Effective Date 6/12/2008)

- Creates provisions governing conveyances between purchasers and homeowners whose properties are in foreclosure or at a risk of loss due to loan or tax delinquencies.
- Requires distressed property conveyances to be by written contract with a right of cancellation.
- Prohibits certain acts and practices by distressed property purchasers and provides remedies under the Consumer Protection Act.

HB 3011 – Securities and Insurers (Effective Date 6/12/2008)

- Allows a broker/dealer to serve as a custodian of securities bought and sold by a domestic insurer.
- Establishes terms and conditions required in a contract between an insurer and a custodian.

2SHB 3104 – Domestic Partnerships (Effective Date 6/12/2008)

- Grants to state registered domestic partners rights and responsibilities given to spouses in areas of law dealing with: dissolutions; community property; estate planning; taxes; court process; services to indigent veterans and other public assistance; conflicts of interest for public officials; and guardianships.

SHB 3144 – Consumer Protection Web Site (Effective Date 6/12/2008)

- Requires the Department of Information Services to develop a consumer web site. DFI will provide financial literacy information for the website.
- The Attorney General's Office must conduct a study to: (1) determine the percentage of consumer complaints alleging violations of the Consumer Protection Act that are resolved to the consumer's satisfaction; and (2) develop sanctions that the Attorney General may use if a Consumer Protection Act complaint has merit and the business fails to respond adequately to the complaint. The Attorney General's Office must report its findings to the Legislature by December 1, 2008.

EHB 3381 - Fees (Effective Date 3/31/2008)

- DFI is authorized to increase specified fees pertaining to credit unions, banks, loan originators, and mortgage brokers.

SSB 5651 – Community Credit Needs (Effective Date 6/12/2008)

- Adds a bank's participation in microenterprise development projects to the factors used to determine if the bank is meeting its community credit needs.

SB 6272 – Financial Literacy (Governor's Bill-Effective Date 2/11/2008)

- Requires the Department of Financial Institutions to provide financial literacy through education and homeownership counseling. Provides an appropriation of \$1.5 million for this biennium for this purpose.
- Creates an interagency work group to identify current state funded efforts to support financial literacy, and report on these efforts to the Governor and the Legislature.

SB 6381 – Mortgage Brokers (Effective Date 6/12/2008)

- Mortgage brokers have a fiduciary duty to borrowers.

- The fiduciary duties owed are acting in the borrower's best interest, good faith, disclosing all other interests to the borrower, refusing to accept undisclosed compensation for an expense paid by the borrower, following the borrower's instructions, disclosure of all material facts that could impact the borrower's interests, using reasonable care in performing all duties, and providing an accounting to the borrower for all money and property received from the borrower.
- The fiduciary duty does not require the mortgage broker to obtain access to a loan product that is not available to the broker at the time of the transaction with the borrower.
- Mortgage brokers may collect a fee for services if the fee is disclosed to the borrower before the services are provided.

SB 6471 – Loan Regulations (Effective Date 6/12/2008)

- The Consumer Loan Act is amended to eliminate the 12 percent interest threshold.
- Mortgage lenders currently exempt from licensing are required to be licensed under the Consumer Loan Act.
- Requires mortgage brokers who make mortgage loans to be licensed under the Consumer Loan Act.

SSB 6711 – Smart Homeownership Choices (Effective Date 6/12/2008)

- The Smart Ownership Choices program is created to assist low-and moderate income households facing foreclosure. The program is created within the Department of Financial Institutions and implemented by the Washington State Housing Finance Commission.
- In order to implement the Program, the Commission will assist homeowners who are delinquent on their mortgage payments to bring their mortgage payments current in order to refinance into a different loan product.
- Homeowners must repay any funds received at the time of refinancing, and the homeowner must participate in a mortgage counseling program.
- The smart homeownership choices program account is created in the custody of the state treasurer. State appropriated funds may be used only to serve low-income households. Contributions from private and other sources may be used to serve both low-and moderate-income households.

SSB 6847 – Real Estate Settlement (Effective Date 6/12/2008)

- Each title insurer and agent must immediately file with the Office of the Insurance Commissioner a schedule of its fees for providing escrow services. The schedule is not effective until 15 days after the schedule is filed.
- Title insurers and agents must make available schedules of currently effective title insurance premiums and any fees for providing escrow services.

- A title insurer, agent, or the employee or representative of an insurer or agent must not give any fee or other thing of value to:
 - any person as an inducement or payment for placing business or referring business to the insurer or agent; or
 - any person in a position to refer or influence the referral of title insurance business to either the insurer or agent, except as permitted under rules adopted by the Insurance Commissioner.
- Real estate brokers and salespersons, escrow agents, mortgage brokers, loan originators, and any person who has a controlling interest in a real estate licensee, escrow agent, or mortgage broker (referred to here as "licensees") are prohibited from:
 - giving any fee, kickback, payment, or other thing of value to any other licensee as an inducement or reward for placing, referring, or causing title insurance business to be given to an agent in which the licensee also has a financial interest;
 - soliciting or accepting anything of value from an insurer or a agent that is not permitted by law or Office of the Insurance Commissioner rules;
 - requiring a consumer to obtain title insurance from an agent in which the person has a financial interest in order to obtain the person's services; and
 - preventing or deterring an insurer from delivering printed promotional materials to the employees, independent contractors, office, or clients of a licensee.